

NOTICE

TO ALL INTERESTED PERSONS:

YOU ARE HEREBY NOTIFIED THAT THE FOLLOWING CHANGES IN THE RED CLIFF CODE OF LAWS **CHAPTER 39: GENERAL ORDINANCES** HAS BEEN PROPOSED TO THE TRIBAL COUNCIL:

ADD to TABLE OF CONTENTS to include SECTIONS 39.7, 39.8, 39.9

CHAPTER 39 – GENERAL ORDINANCES

- 39.1 SECTION 1- ALCOHOL BEVERAGES;
RESTRICTION RELATING TO UNDERAGE PERSONS
- 39.2 SECTION 2- OPEN CONTAINER
- 39.3 SECTION 3- PARTIES TO A VIOLATION
- 39.4 SECTION 4- WINTER PARKING
- 39.5 SECTION 5- SEVERABILITY
- 39.6 SECTION 6- DISORDERLY CONDUCT
- 39.7 SECTION 7- POSSESSION OF MARIJUANA; DRUG
PARAPHERNALIA; SYNTHETIC CANNABINOID**
- 39.8 SECTION 8- MICELLANEOUS PROPERTY OFFENSES**
- 39.9 SECTION 9- PARENTAL RESPONSIBILITY**

ADD THE FOLLOWING SECTIONS WHICH SHALL READ AS FOLLOWS:

**39.7 SECTION 7: POSSESSION OF MARIJUANA, DRUG
PARAPHERNALIA, SYNTHETIC CANNABINOID**

39.7.1 FINDINGS, PURPOSE AND INTENT

For the benefit of the public health, safety and welfare of the tribal membership and Red Cliff community, the Tribe hereby enacts uniform regulations governing the possession, use and sale of Marijuana, Drug Paraphernalia and Synthetic Cannabinoid within the boundaries of the Reservation.

39.7.2 Possession of Marijuana Prohibited. It is unlawful for any person to possess twenty-five (25)grams or less, any material, compound, mixture or preparation which contains any quantity of marijuana, or its salts, isomers or salts of isomers.

39.7.3 Possession of Marijuana Penalty. The penalty for Violation of section 39.7.2 shall be a forfeiture of not less than one hundred dollars nor more than five thousand dollars.

39.7.4 Synthetic Cannabinoid Prohibited.

(a) Possession, use and sale are illegal.
It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, give or barter any material, compound, mixture, or preparation, chemical derivative of marijuana including but not limited to synthetic cannabinoids, JWH-018, JWH-073, JWH-200, JWH- 081, JWH-250, HU-210; cannabicyclohexanol, CP 47, 497; or any similar structural analogs commonly found in, referred to, or marketed or sold under the names "K2", "Spice", "Genie", "Yucatan Fire", "fake" or "new or legal marijuana", or by any other name, label or description.

39.7.5 Synthetic Cannabinoid Penalties.
Any person found guilty of violating section 39.7.4 shall be subject to the following

forfeitures:

- (1) Possession/use. A forfeiture of not less than one hundred dollars nor more than five thousand dollars.
- (2) Sale. A forfeiture of five hundred dollars to five thousand dollars, exclusive of costs, and upon failure to pay the same may be confined in the county jail for not more than thirty days.

39.7.6 Drug Paraphernalia. "Drug paraphernalia" means all equipment, products and materials of any kind that are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog.

- (1) For the purpose of this section paraphernalia shall include but is not limited to:
 - (a) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens
 - (b) Bongs
 - (c) Roach clips
 - (d) Electric pipes
 - (e) Scales and balances
 - (f) Kits designed for manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs.
 - (g) Kits designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from with a controlled substance or controlled

substance analog can be derived.

- (h) Containers and other objects used, designed for use or primarily intended for use in storing or concealing controlled substances or controlled substance analogs.

(2) For the purpose of this section paraphernalia shall not include:

- (a) Hypodermic syringes needles and other objects used or intended for use in injecting substances into the human body.
- (b) Any items, including pipes, papers and accessories that are designed for use or primarily intended for use with tobacco products.

39.7.7 Possession of Drug Paraphernalia. The penalty for a violation of section 39.7.6 shall be a forfeiture of not less than one hundred dollars nor more than five thousand dollars.

39.8 **SECTION 8: MISCELLANEOUS PROPERTY OFFENSES**

39.8.1 Theft.

Whoever intentionally takes and carries away, uses, transfers, conceals, or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of such property with a value of less than \$2,500.00 may be found guilty of theft.

39.8.2 Penalty for Theft. Any person found guilty of theft shall be subject to the following:

- (1) A forfeiture of not less than one hundred dollars nor more than five thousand dollars.
- (2) In addition to a monetary penalty a judge may order a violator to pay restitution.

39.8.3 Retail Theft. A person may be found guilty of retail theft if he or she does any of the following without the merchant's consent and with

intent to deprive the merchant permanently of possession or the full purchase price of the merchandise or property and the value of the merchandise does not exceed \$500.00:

- (a) Intentionally alters indicia of price or value of merchandise held for resale by a merchant or property of a merchant.
- (b) Intentionally takes and carries away merchandise held for resale by a merchant or property of a merchant.
- (c) Intentionally conceals merchandise held for resale by a merchant or property of a merchant.
- (d) Intentionally retains possession of merchandise held for resale by a merchant or property of a merchant.
- (e) While anywhere in the merchant's store, intentionally removes a theft detection device from merchandise held for resale by a merchant or property of a merchant.
- (f) Uses, or possesses with intent to use, a theft detection shielding device to shield merchandise held for resale by a merchant or property of merchant from being detected by an electronic or magnetic theft alarm sensor.
- (g) Uses, or possesses with intent to use, a theft detection device remover to remove a theft detection device from merchandise held for resale by a merchant or property of a merchant

39.8.4 Penalty for Retail Theft. Any person found guilty of retail theft shall be subject to the following:

- (1) A forfeiture of not less than one hundred dollars nor more than five thousand dollars.

- (2) In addition to a monetary penalty a judge may order a violator to pay restitution.

- 39.8.5** Detaining a Suspect of Retail Theft. A merchant or service provider or a merchant's or service provider's adult employee who has reasonable cause for believing that a person has violated this section in his or her presence may detain, within or at the merchant's or service provider's place of business where the suspected violation took place, the person in a reasonable manner for a reasonable length of time to deliver the person to a law enforcement officer, or to his or her parent or guardian in the case of a minor. The detained person must be promptly informed of the purpose for the detention and be permitted to make phone calls, but he or she shall not be interrogated or searched against his or her will before the arrival of a law enforcement officer who may conduct a lawful interrogation of the accused person. The merchant or service provider or a merchant's or service provider's adult employee may release the detained person before the arrival of a law enforcement officer or parent or guardian. Any merchant or service provider or a merchant's or service provider's adult employee who acts in good faith in any act authorized under this section is immune from civil or criminal liability for those acts.
- 39.8.6** Receiving stolen property. A person may be found guilty of receiving stolen property if he or she knowingly or intentionally receives or conceals stolen property if the value of the property does not exceed \$2,500.00.
- (a) Any person found guilty of receiving stolen property shall be subject to a forfeiture of not less than one hundred dollars nor more than five thousand dollars.
- 39.8.7** Littering prohibited. No person shall throw any glass, rubbish, waste or filth upon the streets, highways, public parks or any body of water within the boundaries of the reservation or upon any private property not owned by him or her.

- (a) Any person found guilty of littering shall be subject to a forfeiture of not less than one hundred dollars nor more than five thousand dollars.

39.8.8 Loitering on Posted Property. It shall be unlawful for any person to congregate, loiter, wander, stroll or stand upon any property within the boundaries of the reservation which has been posted with a notice stating "No Loitering", "Patrons Only", or other notice indicating that said property is not designated for such purpose. This section shall include loitering in parked motor vehicles.

- (a) Any person found guilty of loitering shall be subject to a forfeiture of not less than one hundred dollars nor more than five thousand dollars.

39.8.9 Graffiti. The Lake Superior Band of Chippewa finds that graffiti is vandalism that destroys property and contributes to social disorder, crime and other illegal activities including vandalism, theft, and degradation of buildings and decay of neighborhoods.

- (1) For the purpose of this section "Graffiti" means any inscription, work, figure, drawing, symbol, design, or other marking which is scratched, etched, drawn, or painted with spray paint, liquid paint, ink, chalk, dye, or other similar permanent or semi-permanent substance, on public or private property, without the prior express permission or consent of the property owner.
- (2) No person shall affix graffiti upon any property, whether private or public, without the prior express permission or consent of the property owner.

39.8.10 Penalties. Any person convicted of violating the provisions of section 39.8.9 of this chapter is subject to the following:

- (a) A forfeiture of not less than one hundred

dollars nor more than five thousand dollars.

- (b) In addition to a monetary penalty a judge may order a violator be liable for the costs of removing or covering such graffiti.
- (c) The parent(s) or guardian of an unemancipated minor child who affixes graffiti may be held liable for the cost of removing or covering said graffiti in accordance with section 39.9 of this chapter.

39.9 SECTION 9: PARENTAL RESPONSIBILITY

39.9.1 Parental Responsibility for the Acts of a Minor Child. A parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary, to have failed to exercise proper parental responsibility, and the minor shall be deemed to have committed the violations along with the knowledge and consent of the parent or guardian, in violation of this chapter. It is the purpose and intent of this section to insure for the sake of the child and of the community, that parent(s) and guardian(s) make reasonable efforts to positively influence and monitor the behavior choices of their minor children.

- (1) For the purpose of this section, unless otherwise defined:
 - (a) A Child means a person under the age of seventeen years.
 - (b) Consent is defined as the expressed or implied agreement of the parent(s) or guardian(s) with the acts or behavior of the child if, based on "knowledge" as defined above, the parent cannot provide evidence of specific efforts made by them, him/her, to mitigate or to sanction against the negative behavior of the child.

- (c) Knowledge is defined as any information the parent(s) or guardian(s) could derive from their proper and expected role(s) in relationship to their child or information provided by other persons in authority to the child that would cause the parent(s) to be able to anticipate those acts or behaviors of the child which are the subject of the violations.
 - (d) Parent or Guardian means a biological or adoptive parent, a legal guardian or a person who has legal custody of a minor child. Parent or legal guardian does not include an agency who has legal custody, nor any person whose parental rights have been terminated.
- (2) It shall be a defense to the offense of failure to exercise parental responsibility if the parent(s) or guardian(s) can provide specific evidence of on-going participation in or recent completion of parenting classes, family therapy, group counseling or AODA counseling which includes the parent(s), guardian(s) or family. It shall also be a defense to the offense of failure to exercise parental responsibility if the parent(s) or guardian(s) reported the act(s) to the appropriate authorities.

39.9.2 Penalty. Any person convicted of failure to exercise parental responsibility is subject to the following:

- (a) A forfeiture of not less than one hundred dollars nor more than five thousand dollars.
- (b) In addition to a monetary penalty a judge may order the parent(s) or guardian(s) of an unemancipated minor child may be held liable for the cost of replacing or repairing damaged or destroyed property or any other costs associated with such acts.
- (c) Nothing herein shall prohibit the referral

of a tribal child to the Red Cliff Indian Child Welfare office for the filing of a child welfare petition under Chapter 26 of the Red Cliff Code of Laws.

PUBLIC COMMENT ON THIS PROPOSAL IS ENCOURAGED. PLEASE DROP YOUR COMMENTS AT THE TRIBAL ADMINISTRATION BUILDING, OR FORWARD THEM DIRECTLY TO THE TRIBAL COUNCIL. THIS PROPOSAL WILL BE VOTED UPON ON **Monday May 6th 2013** AT THE REGULAR MEETING OF THE RED CLIFF TRIBAL COUNCIL. IF THE COUNCIL ENACTS THIS CODE CHANGE, THE CODE CHANGE SHALL BECOME EFFECTIVE ON **upon enactment.**

DATED: **March 22, 2013**